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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/784,764	02/23/2004	Mark E. Tess	7344.US.O1	8329
23492	7590	05/05/2005	EXAMINER	
ROBERT DEBERARDINE ABBOTT LABORATORIES 100 ABBOTT PARK ROAD DEPT. 377/AP6A ABBOTT PARK, IL 60064-6008			LARKIN, DANIEL SEAN	
			ART UNIT	PAPER NUMBER
			2856	

DATE MAILED: 05/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/784,764

Applicant(s)

TESS ET AL.

Examiner

Daniel S. Larkin

Art Unit

2856

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☒ Claim(s) 14-16 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 30 August 2004.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description:

Reference numeral "122" does not appear in Figures 2 and 3 as suggested by the specification on page 9, lines 7 and 8.

Reference numeral "122x" does not appear in Figure 6 as suggested by the specification on page 9, lines 8 and 9.

2. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-13 are rejected under 35 U.S.C. 102(b) as being anticipated by US 5,628,890 (Carter et al.).

With respect to the limitations of claim 1, the reference to Carter et al. discloses an electrochemical sensor comprising: a base layer (1) having a first major surface and a second major surface; a cover/top layer (11) having a first major surface and a second major surface, the first major surface of the cover/top layer (11) having a layer of mesh (10) adhered thereto; a spacer/middle layer (11) interposed between the first major of the cover/top layer (11) and the first major surface of the base layer (1) to separate the cover/top layer (11) from the base layer (1); a flow channel/sample transfer path (12) having walls formed by the first major surface of the cover/top layer (11); the first major surface of the base layer (1), and the spacer/middle layer (11), the flow channel/sample transfer path (12) having a reaction site (8) therein, the layer of mesh (10) not contacting the reaction site (8); a sample application zone (14), where ! a liquid sample is introduced into the flow channel/sample transfer path (12); and at least one opening (14) communicating with the flow channel/sample transfer path (12) to allow gas to be vented.

With respect to the limitation of claim 2, the reference to Carter et al. discloses that the reaction site (8) comprises an electrode arrangement.

With respect to the limitation of claim 3, the reference to Carter et al. discloses that the electrode arrangement comprises a working electrode (8), and a dual-purpose reference electrode/counter electrode (5).

With respect to the limitation of claim 4, the reference to Carter et al. discloses that the electrode arrangement further comprises a trigger/reference electrode (6).

With respect to the limitation of claim 5, the reference to Carter et al. discloses that the electrode arrangement further includes a reagent system on at least the working electrode (8).

With respect to the limitation of claim 6, the reference to Carter et al. discloses that the reagent system comprises an enzyme and a mediator for the enzyme, col. 3, lines 63-65.

With respect to the limitation of claim 7, the reference to Carter et al. discloses that the electrode arrangement comprises a working electrode (8), a counter electrode (5), and a reference electrode (6).

With respect to the limitation of claim 8, the reference to Carter et al. discloses that the electrode arrangement further comprises a trigger/reference electrode (6).

With respect to the limitation of claim 9, the reference to Carter et al. discloses that the electrode arrangement further includes a reagent system on at least the working electrode (8).

With respect to the limitation of claim 10, the reference to Carter et al. discloses that the reagent system comprises an enzyme and a mediator for the enzyme, col. 3, lines 63-65.

With respect to the limitation of claim 11, the reference to Carter et al. discloses that the at least one opening is formed in the space/middle layer (11).

With respect to the limitation of claim 12, the reference to Carter et al. discloses that the at least one opening is formed in the cover/top layer (11).

With respect to the limitation of claim 13, the reference to Carter et al. discloses that the spacer/middle layer (11) comprises a layer of adhesive/insulating ink. The mesh is held in place by the ink, therefore, the ink as a means of adhering the mesh to a surface.

Allowable Subject Matter

5. Claims 14-16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion


Art Unit: 2856

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel S. Larkin whose telephone number is 571-272-2198. The examiner can normally be reached on 8:00 AM - 5:00 PM Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron Williams can be reached on 571-272-2208. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Daniel Larkin
AU 2856
02 May 2005



DANIEL S. LARKIN
PRIMARY EXAMINER